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**ORIGINAL**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS FILED JAN 25 2016 CLERK, U.S. DISTRICT COURT By _____ Deputy	12:56
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AMY GONZALEZ

*Plaintiff.*

v.

CHARTER COMMUNICATIONS, INC.  
D/B/A CHARTER COMMUNICATIONS  
(I), INC.

*Defendant.*

CIVIL ACTION NO.

**4- 16CV- 061 0**

TRIAL BY JURY DEMANDED

**ORIGINAL COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff Amy Gonzalez, complains of Charter Communications, Inc. d/b/a Charter Communications (I), Inc. Defendant, and for cause of action would respectfully show as follows:

**PRELIMINARY STATEMENT**

1. This is an action for statutory damages brought by individual, Plaintiff Amy Gonzalez against Defendant Charter Communications, Inc. d/b/a Charter Communications (I), Inc. for violations of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227(b)(1)(A)(iii).
2. Plaintiff contends that the Defendant has violated such laws by calling Plaintiffs cellular telephone using an automatic telephone dialing system as defined by the Telephone Consumer Protection Act, 47 U.S.C. §227(a)(1) without express consent to do so. Plaintiff informed Defendant on two separate occasions to stop calling her cellular

telephone. Defendant ignored Plaintiff's request to stop calling and continued to place calls.

3. Plaintiff contends that the Defendant has acted voluntarily, intentionally and under its own free will and knew or should have known that Defendant was engaged in acts that constitute violations of the TCPA.

### **JURISDICTION AND VENUE**

4. Jurisdiction of this Court arises under 47 U.S.C. §227(b)(3).
5. This Court has jurisdiction over Defendant pursuant to 28 U.S.C. §1391b because Defendant engages in business within this state.
6. Venue is proper pursuant to 28 U.S.C. §1391b and 47 U.S.C. §227(b)(3) .
7. Venue in the Northern District of Texas, Fort Worth Division is proper in that the Plaintiff resides in State of Texas, Tarrant County, City of Fort Worth, the Defendant transacts business here, and the conduct complained of occurred here.

### **PARTIES**

8. The Plaintiff in this lawsuit is Amy Gonzalez (Mrs. Gonzalez), a natural person and a citizen of Tarrant County, Texas.
9. Defendant in this lawsuit is Charter Communications, Inc. d/b/a Charter Communications (I), Inc. (herein after "Charter Communications") a company with principal office at 12405 Powerscourt Drive, Saint Louis, MO 63131-3674.
10. Charter Communications may be served with process by serving: Corporation Service Company d/b/a CSC-Lawyers Inco., 211 E. 7th Street, Suite 620, Austin, TX 78701.

**FACTUAL ALLEGATIONS**

11. The telephone number (209) 261-0600 is assigned to a cellular telephone belonging to Mrs. Gonzalez.

12. Charter Communications called the cellular telephone number (209) 261-0600 on the following dates and times:

- |                                   |                                     |
|-----------------------------------|-------------------------------------|
| 1. January 19, 2015 at 9:06 p.m.  | 7. February 17, 2015 at 9:04 p.m.   |
| 2. January 30, 2015 at 9:07 p.m.  | 8. February 19, 2015 at 3:02 p.m.   |
| 3. February 03, 2015 at 9:04 p.m. | 9. February 20, 2015 at 8:07 p.m.   |
| 4. February 04, 2015 at 9:14 p.m. | 10. February 28, 2015 at 01:23 p.m. |
| 5. February 16, 2015 at 3:03 p.m. | 11. March 04, 2015 at 01:54 p.m.    |
| 6. February 16, 2015 at 3:05 p.m. | 12. March 25, 2015 at 2:06 p.m.     |

13. On February 17, 2015 at 09:04 p.m. and February 28, 2015 at 01:23 p.m., the telephone calls were answered and Charter Communications was informed to stop calling the cellular telephone.

14. Charter Communications placed an additional five (5) calls after being informed to stop calling Plaintiff's cellular phone.

15. Upon information and belief, Charter Communications used an automatic telephone dialing system to dial Mrs. Gonzalez wireless cellular phone as defined by the Telephone Consumer Protection Act, 47 U.S.C. §227(a)(1). Each time the telephone call was answered there was a noticeable period of silence before a representative came on the line.

16. Charter Communications called Mrs. Gonzalez cellular telephone number for a non-emergency purpose.

17. Mrs. Gonzalez had no prior established relationship with Charter Communications and has never given her express consent, written or otherwise to contact her cellular phone.

18. The acts alleged herein all took place in Tarrant County, Texas in that the communications were received there.

**COUNT I**

**VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT  
47 U.S.C. §227(b)(1)(A)(iii) BY DEFENDANT CHARTER  
COMMUNICATIONS, INC. D/B/A CHARTER COMMUNICATIONS (I), INC.**

19. Paragraphs 1 through 18 are re-alleged as though fully set forth herein.

20. Mrs. Gonzalez and Charter Communications at this time do not have an established business relationship within the meaning of 47 U.S.C. §227(a)(2).

21. Charter Communications called Mrs. Gonzalez cellular telephone using an “automatic telephone dialing system” within the meaning of 47 U.S.C. §227(a)(1).

22. 47 U.S.C. §227(b)(1)(A)(iii) which states in part;

**(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—**

**(1) PROHIBITIONS.** —It shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

23. In each telephone communication referenced in ¶12, Charter Communications has demonstrated willful or knowing non-compliance with 47 U.S.C. §227(b)(1)(A)(iii) by using equipment with automatic telephone dialing system or used a telephone dialing system that has the *capacity* to automatically call the Mrs. Gonzalez number (209) 261-0600, which is *assigned to a cellular telephone service*.

24. In each telephone communication referenced in ¶12, Charter Communications has demonstrated willful or knowing non-compliance with 47 U.S.C. § 227 (b)(1)(A) by using an automatic telephone dialing system or used a telephone dialing system that has the *capacity* to automatically call the Plaintiff's cellular telephone number (209) 261-0600, which is assigned to a cellular telephone service *with no prior express consent* and for *no emergency purpose*.

**WHEREFORE**, Mrs. Gonzalez prays for relief and judgment, as follows:

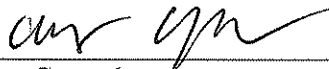
- a) Adjudging that Defendant violated the Telephone Consumer Protection Act and/or admission from the Defendant(s) that they violated the Telephone Consumer Protection Act;
- b) Awarding Mrs. Gonzalez statutory damages, pursuant to 47 U.S.C §227(b)(3)(B); which states in part: an action to recover for actual monetary loss form such a violation, or to receive \$500 in damages for each such violation, whichever is greater.
- c) Awarding Mrs. Gonzalez statutory damages, pursuant to 47 U.S.C §227(b)(3)(C); which states in part: If the Court finds that the Defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the Court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 (three) times the amount available under subparagraph (B) of this paragraph.
- d) Awarding such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Mrs. Gonzalez is entitled to and hereby demands trial by jury.

Dated: January 22, 2016

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Amy Gonzalez', is written over a horizontal line.

Amy Gonzalez  
416 Chatamridge Court  
Fort Worth, TX 76052  
(817) 909-8558  
gonamyleigh@yahoo.com

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Amy Gonzalez

ORIGINAL

(b) County of Residence of First Listed Plaintiff Tarrant

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

## DEFENDANTS

Charter Communications, Inc. d/b/a Charter Communications (I), Inc.

County of Residence of First Listed Defendant St. Louis

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

4-16CV-0610

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
47 U.S.C. § 227 (b)(1)(A)(iii)

Brief description of cause:  
Violations of the Telephone Consumer Protection Act

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED PENDING OR CLOSED CASE(S)

IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 01/22/2016 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # FW025758 AMOUNT \$400 APPLYING IFP JUDGE 0 MAG. JUDGE